

Amendments to House Bill No. 574
1st Reading Copy

Requested by Representative Art Wittich

For the House State Administration Committee

Prepared by Sheri Scurr
March 12, 2015 (2:28pm)

1. Title, page 1, line 6.

Strike: "AND CONTRIBUTIONS BASED ON THAT COMPENSATION"

Following: "COMPENSATION;"

Insert: "CLARIFYING THAT AN EMPLOYER MAY IMPOSE A SPECIAL MILL
LEVY TO MEET ITS RETIREMENT PLAN CONTRIBUTION OBLIGATION
SUBJECT TO VOTER APPROVAL;"

2. Title, page 1, line 7.

Following: "19-9-104"

Strike: "19-9-702, 19-9-703"

Insert: "AND"

Strike: "19-13-604, AND 19-13-605,"

3. Page 2, line 10 through line 13.

Strike: line 10 through line 13 in their entirety

Renumber: subsequent subsections

4. Page 3, line 19 through page 4, line 3.

Strike: section 2 through section 3 in their entirety

Insert: "NEW SECTION. **Section 2. Mill levy authorized.** If an employer is unable to meet its contribution obligation in 19-9-703 within the employer's mill levy limit under 15-10-420, the employer may impose a special mill levy for the purposes of meeting its contribution obligation in 19-9-703, subject to approval at a mill levy election held pursuant to 15-10-425."

Renumber: subsequent sections

5. Page 4, line 11 through line 14.

Strike: line 11 through line 14 in their entirety

Renumber: subsequent subsections

6. Page 6, line 11 through line 28.

Strike: section 5 through section 6 in their entirety

Insert: "NEW SECTION. **Section 4. Mill levy authorized.** If an employer is unable to meet its contribution obligation in 19-13-605 within the employer's mill levy limit under 15-10-420, the employer may impose a special mill levy for the purposes of meeting its contribution obligation in 19-13-605, subject to approval at a mill levy election held pursuant to 15-10-425."



Insert: "NEW SECTION. Section 5. {standard} Codification instruction. (1) [Section 2] is intended to be codified as an integral part of Title 19, chapter 9, part 7, and the provisions of Title 19, chapter 9, part 7, apply to [section 2].

(2) [Section 4] is intended to be codified as an integral part of Title 19, chapter 13, part 6, and the provisions of Title 19, chapter 13, part 6, apply to [section 4]."

Renumber: subsequent section

- END -

Explanation -

Removes offset of local government costs by state.

Clarifies that a local government may impose a special mill levy over the established limit if the special mill levy is approved by voters.

1 HOUSE BILL NO. 574

2 INTRODUCED BY J. ESSMANN

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MUNICIPAL POLICE OFFICERS' AND THE
5 FIREFIGHTERS' UNIFIED RETIREMENT SYSTEM LAWS CONCERNING THE DEFINITION OF
6 "COMPENSATION" ~~AND CONTRIBUTIONS BASED ON THAT COMPENSATION~~; AMENDING SECTIONS
7 19-9-104, ~~19-9-702, 19-9-703~~, 19-13-104, ~~19-13-604, AND 19-13-605~~, MCA; AND PROVIDING A DELAYED
8 EFFECTIVE DATE."

9

10 WHEREAS, a portion of the current 2.75% insurance premium tax in section 33-2-705, MCA, dates back
11 to an 1864 license fee imposed on fire insurance companies for the specific purpose of funding local fire relief
12 association disability funds; and

13 WHEREAS, the license fee was expanded in 1897 to apply to all insurance companies doing business
14 in Montana and was used for local police pension and disability funds; and

15 WHEREAS, in 1911, an additional tax commonly known as the State Fire Marshall's Tax was imposed
16 on the fire risks portion of the premiums collected by insurance companies to fund the State Fire Marshall's office
17 as well as local fire departments and was later combined with the other insurance premium taxes which continued
18 to be used for local police and fire pension and disability benefits; and

19 WHEREAS, the Municipal Police Officers' Retirement System (MPORS) was established in 1977 and
20 the Firefighters' Unified Retirement System (FURS) was established in 1981 as statewide consolidations of local
21 police and fire pension and disability funds; and

22 WHEREAS, in 1997, earmarks on the insurance premium taxes were removed, the taxes were deposited
23 directly to the general fund, and the state's contributions to MPORS and FURS were made directly from the
24 general fund;

25 WHEREAS, in Fiscal Year 2014, more than \$73 million was collected in insurance premium taxes, with
26 more than \$60 million deposited to the general fund; and

27 WHEREAS, the current state general fund contributions to MPORS and FURS amount to only about \$26
28 million; and

29 WHEREAS, it is desirable to revise the definition of "compensation" for police officers and firefighters so
30 they can save for retirement based on their total compensation; and

WHEREAS, it is desirable to specify that a portion of the insurance premium tax revenue now going to the general fund be used to offset any fiscal impact to local governments for the revised definition of "compensation" in MPORS and FURS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 19-9-104, MCA, is amended to read:

"19-9-104. Definitions. Unless the context requires otherwise, the following definitions apply in this chapter:

~~(1) "Additional compensation" means overtime payments, holiday payments, shift differential payments, compensatory time payments, and payments in lieu of sick leave and annual leave.~~

~~(2) "Base compensation" means compensation excluding overtime payments, holiday payments, shift differential payments, compensatory time payments, and payments in lieu of sick leave and annual leave.~~

~~(1)(2)~~ ⁽¹⁾ (a) "Compensation" means the remuneration paid from funds controlled by an employer in payment for the member's services before any pretax deductions allowed by state or federal law are made, including overtime, holiday payments, shift differential payments, compensatory time payments, and payments in lieu of sick leave and annual leave.

(b) ~~Compensation~~ The term does not include:

~~(i) overtime, holiday payments, shift differential payments, compensatory time payments, and payments in lieu of sick leave and annual leave;~~

~~(ii)~~ (i) maintenance, allowances, and expenses; or

~~(iii)~~ (ii) bonuses provided after July 1, 2013, that are one-time, temporary payments in addition to and not considered part of base pay.

~~(2)~~ (4) "Dependent child" means a child of a deceased member:

(a) who is unmarried and under 18 years of age; or

(b) who is unmarried, under 24 years of age, and attending an accredited postsecondary educational institution as a full-time student in anticipation of receiving a certificate or degree.

~~(3)~~ (5) "Employer" means any city that participated in a prior plan or that elects to join this retirement system under 19-9-207.

~~(4)~~ (6) (a) "Final average compensation" means the monthly compensation of a member averaged over

1 the last 36 months of the member's service or, in the event a member has not served at least 36 months, the total
2 compensation earned divided by the number of months of service.

3 (b) Excess earnings limits must be applied to the calculation of the final average compensation pursuant
4 to 19-2-1005(2).

5 ~~(5)~~(7) "Minimum retirement date" means the first day of the month coinciding with or, if none coincides,
6 the date on which a member both becomes age 50 and completes 5 years of membership service.

7 ~~(6)~~(8) Any reference to "municipality", "city", or "town" includes those jurisdictions that, prior to the
8 effective date of a county-municipal consolidation, were incorporated municipalities, subsequent districts created
9 for urban law enforcement services, or the entire county included in the county-municipal consolidation.

10 ~~(7)~~(9) "Police officer" means an appointed, lawfully trained, appropriately salaried, and regularly acting
11 officer with the requisite professional certification and licensing.

12 ~~(8)~~(10) "Prior plan" means the local police reserve or pension trust fund of a city that elects to join the
13 retirement system under 19-9-207.

14 ~~(9)~~(11) "Retirement date" means the date on which the first payment of the retirement, disability, or
15 survivorship benefits of a member or a survivor is payable.

16 ~~(10)~~(12) "Surviving spouse" means the spouse married to a member at the time of the member's death.

17 ~~(11)~~(13) "Survivor" means a surviving spouse or dependent child of the member."
18

19 **Section 2.** ~~Section 19-9-702, MCA, is amended to read:~~

20 **"19-9-702. State contribution.** (1) The state shall make its contributions from the general fund. The
21 general fund contributions must be made annually after the end of each fiscal year but no later than November
22 1. The board shall notify the state auditor by September 1 of each fiscal year of the annual compensation paid
23 to all active members during the preceding fiscal year.

24 (2) The state's contribution is an amount equal to 29.37% of the base compensation paid to members.

25 (3) The state's additional contribution is an amount equal to 14.41% of the additional compensation paid
26 to members.

27 (4) The contributions are statutorily appropriated as provided in 17-7-502."
28

29 **Section 3.** ~~Section 19-9-703, MCA, is amended to read:~~

30 ~~**"19-9-703. Employer contribution.** Each employer shall make its contribution through the city treasurer~~

~~or other appropriate official out of money available to the city for that purpose. The employer shall pay as employer contributions an amount equal to 14.41% of the base compensation paid to all of the employer's employees, except those properly excluded from membership."~~

→ INSERT NEW SECTION Sec. 2. Mill levy authorized.

Section ~~13~~ Section 19-13-104, MCA, is amended to read:

"19-13-104. Definitions. Unless the context requires otherwise, the following definitions apply in this chapter:

(1) Any reference to "city" or "town" includes those jurisdictions that, before the effective date of a county-municipal consolidation, were incorporated municipalities, subsequent districts created for urban firefighting services, or the entire county included in the county-municipal consolidation.

~~(2) "Additional compensation" means overtime payments, holiday payments, shift differential payments, compensatory time payments, and payments in lieu of sick leave.~~

~~(3) "Base compensation" means compensation excluding overtime payments, holiday payments, shift differential payments, compensatory time payments, and payments in lieu of sick leave.~~

⁽²⁾
~~(2)~~ (a) "Compensation" means:

(a)(i) for a full-paid firefighter, the remuneration paid from funds controlled by an employer in payment for the member's services before any pretax deductions allowed by state and federal law are made, including overtime payments, holiday payments, shift differential payments, compensatory time payments, and payments in lieu of sick leave;

(b)(ii) for a part-paid firefighter employed by a city of the second class:

(i)(A) 15% of the regular remuneration, ~~excluding~~ including overtime, holiday payments, shift differential payments, compensatory time payments, and payments in lieu of sick leave, paid on July 1 of each year to a newly confirmed, full-paid firefighter of the city that employs the part-paid firefighter; or

(ii)(B) if that city does not employ a full-paid firefighter, 15% of the average regular remuneration, ~~excluding~~ including overtime, holiday payments, shift differential payments, compensatory time payments, and payments in lieu of sick leave, paid on July 1 of each year to all newly confirmed, full-paid firefighters employed by cities of the second class.

(c)(b) Compensation for full-paid and part-paid firefighters does not include:

(i) ~~overtime, holiday payments, shift differential payments, compensatory time payments, and payments in lieu of sick leave;~~

1 ~~(iii)~~(i) maintenance, allowances, and expenses; or

2 ~~(iii)~~(ii) bonuses provided after July 1, 2013, that are one-time, temporary payments in addition to and not
3 considered part of base pay.

4 ~~(3)~~(5) "Dependent child" means a child of a deceased member who is:

5 (a) unmarried and under 18 years of age; or

6 (b) unmarried, under 24 years of age, and attending an accredited postsecondary educational institution
7 as a full-time student in anticipation of receiving a certificate or degree.

8 ~~(4)~~(6) "Employer" means:

9 (a) any city that is of the first or second class or that elects to join this retirement system under
10 19-13-211;

11 (b) a city or a rural fire district referred to in 19-13-210(3);

12 (c) with respect to firefighters covered in the retirement system pursuant to 19-13-210(2), the department
13 of military affairs established in 2-15-1201; and

14 (d) any other statutorily allowed entity that elects to join this retirement system pursuant to 19-13-210.

15 ~~(5)~~(7) "Firefighter" means a person employed as a full-paid or part-paid firefighter by an employer.

16 ~~(6)~~(8) "Full-paid firefighter" means a person appointed pursuant to 7-33-4106 by an employer as a
17 firefighter meeting the standards provided in 7-33-4107.

18 ~~(7)~~(9) (a) "Highest average compensation" means the monthly compensation of a member averaged over
19 the highest consecutive 36 months of the member's active service or, in the event a member has not served at
20 least 36 consecutive months, the total compensation earned divided by the number of months of service.

21 (b) Lump-sum payments for annual leave paid to the member upon termination of employment may be
22 used to replace, on a month-for-month basis, the regular compensation for a month or months included in the
23 calculation of highest average compensation.

24 (c) Excess earnings limits must be applied to the calculation of the highest average compensation
25 pursuant to 19-2-1005(2).

26 ~~(8)~~(10) "Minimum retirement date" means the first day of the month coinciding with or immediately
27 following, if none coincides, the date on which a member both reaches 50 years of age or older and completes
28 5 or more years of membership service.

29 ~~(9)~~(11) "Newly confirmed firefighter" means a new member of a fire department appointed pursuant to
30 7-33-4106 and meeting the standards of 7-33-4107.

(12) "Part-paid firefighter" means a person other than a full-paid firefighter employed by a second-class city who receives compensation in excess of \$300 a year for service as a firefighter and who is appointed by an employer as a firefighter under the standards provided in 7-33-4106 and 7-33-4107.

(13) "Prior plan" means the fire department relief association plan of a city that elects to join the retirement system under 19-13-211 or the fire department relief association plan of a city of the first or second class.

(14) "Retirement date" means the date on which the first payment of benefits is payable.

(15) "Retirement system" means the firefighters' unified retirement system provided for in this chapter.

(16) "Surviving spouse" means the spouse married to a member at the time of the member's death."

Section 5. Section 19-13-604, MCA, is amended to read:

~~"19-13-604. State contribution. (1) The state shall make its contributions from the general fund. The~~

~~general fund contributions must be made annually after the end of each fiscal year but no later than November~~

~~1. The board shall notify the state auditor by September 1 of each fiscal year of the annual compensation; excluding overtime, holiday payments, shift differential payments, compensatory time payments, and payments in lieu of sick leave, paid to all active members during the preceding fiscal year.~~

~~(2) The state's contribution is an amount equal to 32.61% of this total the base compensation paid to all active members during the preceding fiscal year.~~

~~(3) The state's additional contribution is an amount equal to 14.36% of the additional compensation paid to all active members during the preceding fiscal year.~~

~~(4) The contributions are statutorily appropriated, as provided in 17-7-502."~~

Section 6. Section 19-13-605, MCA, is amended to read:

"19-13-605. Employer contribution. Each employer shall make its contribution on behalf of members through the city treasurer or other appropriate official from money available for this purpose. The employer shall pay as employer contributions an amount equal to 14.36% of the base compensation paid to all of the employer's employees, except those properly excluded from membership. All contributions are payable monthly to the board, which shall, as soon as practicable after their receipt, deposit them in the pension trust fund."

INSERT NEW SECTION. Sec. 4. Mill levy authorized

NEW SECTION. Section 7. Effective date. [This act] is effective January 1, 2016.

- END -